

August 31, 2018

Seema Verma
Administrator
Centers for Medicare and Medicaid
Department of Health and Human Services
Attn: CMS-1689-P
P.O. Box 8016
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Baltimore, Maryland 21244-8016

RE: CMS-1689-P - Medicare and Medicaid Programs; CY 2019 Home Health Prospective Payment System Rate Update and Proposed CY 2020 Case-Mix Adjustment Methodology Refinements; Home Health Value-Based Purchasing Model; Home Health Quality Reporting Requirements; Home Infusion Therapy Requirements; and Training Requirements for Surveyors of National Accrediting Organizations (83 Fed. Reg. 32340, July 12, 2018)

The American Association of Nurse Practitioners (AANP), representing more than 248,000 nurse practitioners (NPs) in the United States, appreciates the opportunity to provide comment in response to the CY 2019 Home Health Prospective System Rate Update (83 FR 32340).

NPs are advanced practice registered nurses who are prepared at the masters or doctoral level to provide primary, acute, chronic and specialty care to patients of all ages and walks of life. Daily practice includes: assessment; ordering, performing, supervising and interpreting diagnostic and laboratory tests; making diagnoses; initiating and managing treatment including prescribing medication and non-pharmacologic treatments; coordinating care; counseling; and educating patients and their families and communities. NPs practice in nearly every health care setting including clinics, hospitals, Veterans Affairs and Indian Health Care facilities, emergency rooms, urgent care sites, private physician or NP practices (both managed and owned by NPs), nursing homes, schools, colleges, retail clinics, public health departments, nurse managed clinics, homeless clinics, and home health (HH). NPs hold prescriptive authority in all 50 states and the District of Columbia. It is important to note that 86.6% of NPs are certified in primary care, the majority of whom see Medicare and Medicaid patients. NPs complete more than one billion patient visits annually.

Home Health Prospective Payment System

We agree with CMS that the 60-day plan of care and certification time frames should remain unchanged with the implementation of the new 30-day unit of payment. Those timeframes are already burdensome on nurse practitioners who must find a physician to certify a new plan of care and the patient's continuing need for services. Increasing the frequency of those requirements would add an additional burden on nurse practitioners and their patients.

In last year's proposed rule, and in multiple other requests for information on burden reduction, CMS has requested feedback on regulatory burdens that negatively impact care for home health patients. In an appropriate response to comments, CMS is proposing to eliminate the requirement that a recertification

include an estimate of the length of time skilled services will be required. We appreciate that CMS is responding to stakeholder feedback on regulatory burdens and continue to request that CMS also update and remove the outdated and unnecessary requirements that physicians only be authorized to certify and recertify home health plans of care and document face-to-face patient assessments.

Under the current structure, nurse practitioners must find a physician to document that a face-to-face assessment has taken place, and have the physician certify the plan of care. NPs that are the primary care providers for patients in the Home Health program are not able to make necessary adjustments to medication or treatment without obtaining a physician signature. This delays access to treatment and puts patients at risk for avoidable complications. NPs are qualified to provide this care without physician certification and are already doing so for millions of Medicare and Medicaid beneficiaries outside of the Home Health program.

We urge CMS to be more inclusive of nurse practitioners who have a proven track record of providing high-quality cost-effective health care. While CMS seeks to make changes to the Home Health program, we suggest making cost-effective changes to the program by removing administrative burdens from agencies, nurse practitioners and physicians. In that vein, we highly encourage CMS to use its regulatory authority to waive the requirements that physicians must document the face-to-face assessments performed by nurse practitioners and certify their plans of care. Removing these barriers would create cost savings for the program, increase efficiency and allow a patient's provider of choice to fully evaluate the patient in the face to face encounter and develop the plan of care.

CMS has several tools at its disposal to enact these necessary changes:

- **issue an enforcement moratorium, such as that applied to supervision of outpatient therapy in critical access hospitals;**
- **use regulatory authority to expand the definition of physician utilized in this regulation to include nurse practitioners, similar to the diabetes outpatient self-management training program, recognizing that the language of the home health legislation is outdated and not reflective of how care is currently delivered in the home health program;**
- **ensure that any state waivers or future care models allow clinicians, including nurse practitioners, to practice to the full extent of their education and clinical training; and**
- **ensure that the regulatory structure put forth by CMS is not more restrictive than required under statute.**

These changes are necessary to ensure that nurse practitioners can most effectively and efficiently utilize their clinical skills in the best interests of their patients and help the Medicare and Medicaid programs create greater efficiency in both cost and use of providers.

The proposals put forth by CMS underscore the need for changes in the home health regulations related to nurse practitioners. Nurse practitioners are forced to deal with burdensome, outdated and unnecessary regulations in order to provide home health care, despite the fact that they are the largest provider type delivering home health care over the largest geographic service area and are qualified to perform these duties in their own practice settings. While nurse practitioners are authorized to supervise home health care in the Medicare and Medicaid programs, they should be able to do so to the full extent of their education and clinical training without undue burden.

Additionally, as you seek to collect data or convene panels of experts to amass information to make your decisions regarding the HH program, we implore you to involve nurse practitioners. We cannot stress enough the importance of including feedback from all providers, including NPs, as you are standardizing and utilizing data regarding patient care in home health programs.

Home Infusion Therapy

In this proposed rule, CMS is implementing a Medicare benefit for home infusion therapy outside of the home health benefit that was established in the 21st Century Cures Act. While we understand that CMS must issue rulemaking, we are concerned that even though NPs are “applicable providers” who can be the attending care provider for a patient receiving home infusion therapy, NPs still must have a physician certify the plan of care. NPs currently provide home visits to Medicare patients without physician’s certifying their plans of care. NPs also create plans of care and treat patients receiving infusion therapy in their offices and other settings without physician certification. The requirement that a physician must certify an NPs plan of care for home infusion therapy inhibits access to care and undermines the purpose of the legislation, which was to increase the ability of patients to receive infusion therapy at home instead of in costly facilities. This will increase costs for the Medicare program and deprive patients of their ability to choose their preferred setting to receive treatment.

In that vein, we agree with CMS’ position to not establish a specific time frame for the review of plans of care. The clinicians caring for patients are in the best position to assess their needs and mandatory recertification periods lead to unnecessary costly visits. Additionally, our members have reported delays in treatment due to the need to obtain a physician signature for every new order or adjustment of a plan of care under the home health conditions of participation, and we ask that CMS not enact similar restrictions on home infusion therapy. We stress the need for CMS to use its regulatory or waiver authority to enable NPs to certify plans of care to ensure access to this vital therapy and implore the Agency to better utilize the clinical training of NPs to serve their patients’ health care needs.

We thank you for the opportunity to comment on this proposed regulation. We look forward to discussing these issues with you. Should you have comments or questions, please direct them to MaryAnne Sapio, V.P. Federal Government Affairs, msapio@aanp.org, 703-740-2529.

Sincerely,

David Hebert
Chief Executive Officer